

B-3-1



**STATE OF NEW JERSEY**

**FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION**

In the Matter of Larry Carter,  
Deputy Fire Chief (PM1696S),  
East Orange

CSC Docket No. 2016-865

Examination Appeal

**ISSUED: OCT 13 2015 (RE)**

Larry Carter appeals his score on the examination for Deputy Fire Chief (PM1696S), East Orange. It is noted that the appellant passed the examination with a final average of 80.750 and ranks eighth on the resultant eligible list.

The subject promotional examination was held on April 22, 2015 and nine candidates passed. This was an oral examination designed to generate behaviors similar to those required for success in a job. The examination consisted of four scenario-based oral exercises; each was developed to simulate tasks and assess the knowledge, skills and abilities (KSAs) important to job performance. These exercises covered four topic areas: 1) Incident Command – Non-fire Incident, 2) Supervision, 3) Administration, and 4) Incident Command – Fire Incident.

The candidates' responses were scored on technical knowledge and oral communication ability. Prior to the administration of the exam, a panel of Subject Matter Experts (SMEs) determined the scoring criteria, using generally approved fire command practices, fire fighting practices, and reference materials. Scoring decisions were based on SME-approved possible courses of action (PCAs) including those actions that must be taken to resolve the situation as presented. For a performance to be acceptable in the technical component for some scenarios, a candidate needed to present the mandatory courses of action for that scenario. Only those oral responses that depicted relevant behaviors that were observable and could be quantified were assessed in the scoring process.

This examination was given using the chain oral testing process, and candidates were given ten minutes to respond to each question. Candidate responses to each question were rated on a five-point scale (1 to 5) from nil response through optimum according to determinations made by the SMEs. Oral communication for each question was also rated on the five-point scale. This five-point scale includes 5 as the optimal response, 4 as a more than acceptable passing response, 3 as a minimally acceptable passing response, 2 as a less than acceptable response, and 1 as a much less than acceptable response. The appellant received the following scores for the technical component for each question, in order: 4, 4, 1, and 1. He received the scores of 4, 4, 3, and 4 for the oral communication components.

The appellant challenges his score for the technical components for the Incident Command – Non-fire Incident, Supervision and Incident Command – Fire Incident scenarios. He also challenges his score for the oral communication components for the Incident Command – Non-fire Incident and Administration scenarios. As a result, the appellant's test material, audiotape, and a listing of PCAs for the scenario were reviewed.

The Incident Command – Non-Fire Incident scenario pertained to a report of a suspicious red suitcase at the local mall found next to a garbage can inside the food court. It is Saturday afternoon at 2:00 PM in May, 55° F, with wind blowing from the south at 10 miles per hour. The mall is crowded with weekend shoppers, and a security guard meets the candidate outside of the entrance to the food court and tells him there is a suspicious red suitcase with stains on it, giving off occasional slight wisps of smoke. Instructions to candidates were to base their responses on the text *Fire Officer's Handbook of Tactics*, and their experience. Question 1 asked for specific potential hazards to be aware of at this incident. Question 2 indicated that, while personnel are involved in evacuation and isolation procedures, just as the dispatcher notifies the candidate of the first 10 minute benchmark, the package detonates and causes localized structural collapse to the food court area. The question asked for specific actions to take based on this new information.

For this incident, the assessor noted that the appellant missed the opportunity to address the hazard of flying glass from the building, which was an additional response to question 1. On appeal, the appellant argues that the actions he took outweighed that oversight. He argues that there are many other potential hazards that could have been mentioned such as chemical and biological agents, and he mentioned every resource that could possibly be put to use at that scene.

In the instructions listed after the questions, candidates were told that in responding to the questions to be as specific as possible. They were told to not assume or take for granted that general actions would contribute to their score.

The monitor read these instructions immediately after reading the questions. In his response to question 1 the appellant stated, "Question one, what specific potential hazards. The potential hazards at this particular mall is there is an unknown quantity, but there is smoke coming out of it, so the potential hazards is a explosion. At um, occupied ah area part of the mall. And the explosion can be chemical, biological, whatever, because it is unknown, unknown quantity." That was the appellant's response to question 1, and then he began answering question 2. The appellant received credit for recognizing possible chemical and biological hazards. However, he did not address any other physical hazards, such as flying glass from the building, ruptured gas lines, or damaged electrical utilities. The appellant called resources to the scene in his response to question 2. But this was a separate response to a different question. The appellant had been told that credit cannot be given for information that was implied or assumed, that it cannot be inferred that the appellant was aware of flying glass from the building as a potential hazard in question 1 when he called for specific resources in question 2. The appellant's score of 4 for this component is correct

For the oral communication component, the assessor indicated that the appellant displayed a weakness in word usage. For example, he used phrases such as, "I would, like, keep police out," "when USAR come up," "things gonna happening," and "and for have them," etc. It was also noted that the appellant spoke quickly at times. On appeal, the appellant argues that on the fireground, correct grammar and vernacular is not what is needed, but clear concise comments are needed.

In reply, the orientation guide that was available to each candidate indicated that oral communication, the ability to communicate clearly and concisely, was a component of this portion of the exam. This was a formal examination setting, and candidates were required to state what they meant at an appropriate rate, and with no distractions. There are various factors associated with oral communication. One of the factors of oral communication is word usage/grammar, which is defined as using appropriate words and sentences that are grammatically correct. Another factor is inflection/moderation/rate/volume. This factor is defined as speaking at an appropriate rate, maintaining appropriate pitch and volume, and properly using pitch to convey meaning or emphasis.

A review of the appellant's presentation indicates that he had a weakness in grammar. For example, the appellant said, "The potential hazards at this particular mall is there is an unknown quantity, but there is smoke coming out of it, so the potential hazards is a explosion." The subject of the sentence is plural, but the verb is singular, the noun "quantity" does not adequately describe the suitcase or refers to the contents of the suitcase while the smoke was coming from the suitcase, and the article "a" does not match the noun "explosion." The appellant's presentation is replete with grammatical errors including incorrect word usage,

incomplete sentences, run-on sentences and unclear statements. For example, he stated, "Also because of the fact that it is possibly a terrorist attack, I would ah, contact local OEM, State OEM, the local emergency planning commission, the state emergency response commission, um, possibly um, ah U.S. government, the um, that takes care of stuff like that," and "I wouldn't have control but as Incident Commander I would like probably keep the police out unless they have SCBA because of the potential of um, becoming biologically infected." He said, "Also this could possibly become a mass casualty incident so I'd alert, have EMS alerted. They would already been on scene, but they alert them all if possible mass casualty, and for to have them to alert the surrounding hospitals, especially the trauma one centers and burn facilities if they're there." The appellant's presentation had a weakness in grammar and his score for this component will not be changed.

The Supervision scenario indicated that the candidate was a newly promoted Deputy Fire Chief. While performing a routine inspection of the firehouse, the candidate walks in on two male Fire Captains angrily discussing a topic, and they immediately stop once the candidate enters the room. Before entering the room, the candidate overhears something about retaliation against the female Battalion Fire Chief in charge of their tour. Upon further questioning, they tell the candidate that over the last few weeks, the female Battalion Fire Chief made several inappropriate sexual jokes directed at one of the male Fire Captains in front of the entire fire house. The male Fire Captain feels angry and humiliated over the jokes and wants the behavior to stop. Instructions to candidates are to answer the questions based on the text, *The Fire Chief's Handbook*, and their experience. Question 1 asks for specific actions to take regarding the situation. Question 2 adds that the candidate determines that the Battalion Fire Chief has been harassing the Fire Captain under her command. It asks for specific actions to be taken based on this new information.

The assessors indicated that the appellant missed the opportunity to ensure that the Law Department was consulted. On appeal, the appellant argues that the recommended text does not mention consulting the law department on specific pages. He argues that he was very detailed regarding the handling of possible discipline and the employee while ensuring her rights.

In reply, a review of the appellant's presentation indicates that he did not state that he would ensure that the law department is consulted. The appellant argues that this action was not necessary because it was not listed in the recommended text. A review of the text indicates that the section regarding sexual harassment is in the chapter entitled *Management and the Law*, which explains the lawsuit process, standards and the law, and tips for avoiding legal problems, among other topics. The sexual harassment section is under tips for avoiding legal problems. Clearly the text indicates that this issue has legal implications, and the SMEs determined that an appropriate action is to consult the law department. The

appellant did not do so, and his argument that he did not need to is unpersuasive. The appellant's score of 4 for this component is correct.

For the administration scenario, for the oral communication component, the assessor noted that the appellant's presentation lacked organization and did not include a clear plan. It was also noted that the appellant's presentation lacked specificity, and that he made general statements and repeated himself. On appeal, the appellant argues that he was graded harshly and that he was not supposed to be judged on content.

In reply, the assessor's comments refer to two factors of oral communication, organization, and specificity. The oral communication component is not scored directly on the actual content and meaning of the thoughts expressed; rather, it is characterized by the effective expression of ideas in individual situations (including organization and specificity), and adjusting language or terminology to intended audiences. Organization is defined as presenting ideas in a logical fashion, stating a topic, providing supporting arguments and providing a summary/conclusion. Specificity is generally noted if a candidate's presentation lacks specificity, depth and detail. In fact, as stated, the instructions for this question asked candidates to be as specific as possible. The appellant did not provide any specific arguments regarding his score, except that he was dissatisfied with the scoring criteria.

A review of the appellant's presentation indicates that his response to question 1 was extremely brief, about 40 seconds long. He then began responding to question 2. Afterwards, he responded to question 3 in less than a minute. The appellant did not have a clear plan of action and he lacked specificity. For example, regarding actions to take on revising the Department's risk assessment, the appellant stated, "First of all, if you need to look at the current plan and see um, look at it and compare to see the pros and cons of it. The ones ah, the cons you can see if you can make those better, and the pros you just, you want to, um expound on them and ah, lift them up. Whereas the cons you can see well, it's not working so you're going to try something else. But you, you're listening to everybody. And part of it would be to retrain of the officers, so they can retrain the firefighters better so that if we do our job quicker and more effectively, even though they're doing them quickly and effectively." The appellant spoke of pros and cons but did not provide any specifics regarding them. He then tangented into retraining officers, and his sentence on this topic rambled. There was little organization to the ideas presented, and he was at times too brief, or made generalized statements, particularly in response to questions 1 and 3. His score for this component is correct.

The Incident Command-Fire scenario concerned a report of a fire at a two-family residence. It is 5:00 PM, 60° F, with little to no wind. A Battalion Fire Chief, two engine companies, and one ladder company have been on the scene for

one minute and have not commenced operations. Upon arrival, the candidate observes fire and heavy smoke from the first floor of the house, venting out of Sides B and D of the building. The candidate also receives a radio report of a person confined to a wheelchair trapped in the second floor bedroom of the fire building. Instructions asked candidates to base their responses on the text *Fire Officers Handbook of Tactics* and their experience. Question 1 asked for specific initial actions to take to mitigate this incident. Question 2 indicated that, after 15 minutes of offensive operations, the candidate receives a radio report that the exposures have asphalt siding and the fire is rapidly intensifying and has spread into Exposures B and D. The question asked for specific actions that should now be taken based on this new information.

The assessor noted that the appellant failed to order a primary search in response to question 1, and failed to call for third and fourth alarms in addition to the original request, in response to question 2. It was also noted that he missed the opportunities to receive a situation status report from the Incident Commander, for question 1, and to expand the incident command system and assign division supervisors to exposures in response to question 2. On appeal, the appellant states that he clearly spoke of searches and called for a third alarm and staged those companies. He states that he handled exposures by putting an engine company in both exposures. He also believes that the scenario was flawed, as it referred to two B exposures and no D exposure in the description.

In reply, for the scenarios, certain responses to the situation presented are mandatory. That is, mandatory responses are responses that are requirements for a performance to be acceptable (a score of 3). Sometimes, a candidate states many additional responses but does not give a mandatory response: however, the SMEs cannot provide a score higher than a 3 in those cases. All mandatory responses must be given in order for a performance to be acceptable, whether there is one mandatory response or five of them. It is not assumed that candidates receive a score of 5 which is then lowered for lack of responses. Performances that include mandatory responses get a score of 3, and those without mandatory responses get a score of 1 or 2. Additional responses only increase a score from 3 to 4 or from 3 to 5.

The appellant received a score of 1 for this component which reflects a much less than acceptable response as he did not address two mandatory responses. For question 1, ordering a primary search was a mandatory response. For question 2, calling for third and fourth alarms in addition to the original request was a mandatory response. A review of the appellant's audiotape indicates that he missed these responses. For question 1, the appellant's response was non-specific regarding ordering the *primary* search. The stated that he would order searches, and then he discussed exposures. This cannot be considered to be a primary search. As noted above, credit was not given for information that was implied or assumed. For question 2, candidates were required to call for third and fourth alarms in

addition to the original request. The appellant called for a third alarm, but he did not call for a fourth alarm. As such, the appellant did not have adequate personnel on scene to handle the situation given the additional information provided in question 2. The typographical error in the body of the scenario regarding the exposures on sides B and D is inconsequential, as the exposures on both sides were the same. Also, there was a diagram available for him to refer to, and a review of his presentation indicated that he did so, and he ordered lines into exposures on both side B and side D of the fire building, and ordered water curtains on both sides. The appellant did not appear to be confused regarding the exposures on these sides, but if he had a question regarding this, he could have asked the room monitor. In any event, it has no bearing on the missed responses. The appellant missed two mandatory responses, as well as the additional responses, and his score of 1 for this component is correct.

### CONCLUSION

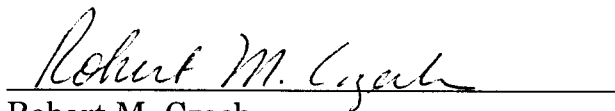
A thorough review of appellant's submissions and the test materials indicates that the decision below is amply supported by the record, and the appellant has failed to meet his burden of proof in this matter.

### ORDER

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION  
THE 7<sup>th</sup> DAY OF OCTOBER, 2015



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